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Attorneys for Trustee, Bunce D. Atkinson

IN RE: 111 GLENDALE DRIVE, INC., Debtor.	UNITED STATES BANKRUPTCY COURT DISTRICT OF NEW JERSEY CASE NO. 12-26775/KCF CERTIFICATION IN SUPPORT OF NOTICE OF MOTION TO AUTHORIZE THE TRUSTEE TO ABANDON REAL PROPERTY TO THE DEBTOR Hearing Date: April 24, 2018 @ 10:00 a.m.
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Bunce D. Atkinson, of full age, does hereby certify as follows:

1. I am the duly appointed Trustee in the within matter and am fully familiar with facts contained herein.
2. I make this certification in support of the Trustee's Notice of Motion seeking to abandon the real property owned by the Debtor located at 234 Route 130, Bordentown, New Jersey (hereinafter referred to as the "real property").
3. The Debtor filed its petition for relief under Chapter 7 on June 30, 2012. At the time of the filing of the petition the Debtor listed the real property and valued it at \$225,000.00. The property is not encumbered by any mortgages.
4. The holders of interest in the Debtor corporation are Ed Koenig, 23.75%; John M. Koenig, 23.75%; George Abel, 22.5%; Marybeth Warren, 12.5%; Carolyn Stoy, 12.5%; Paul T. Koenig, Jr., 2.5%; and the Estate of Helen Gardiner, 2.5%.

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5. At the time of the filing of the petition, the Debtor listed unsecured priority claims of \$1,751.00 and one unsecured non-priority claim of \$79,679.00. Subsequent to my appointment, I discovered that prior to the filing of the petition, the Debtor had commenced remediation work at the real property, and had engaged Arecon Ltd.(hereinafter “Arecon”) to perform services. Arecon is the sole unsecured creditor for \$79,679.00.

6. Because Arecon was most familiar with the property and the work to be performed, I filed an application to employ Arecon as an environmental engineer for the site remediation. An Order was entered approving Arecon on May 5, 2014.

7. Because I believed that the sale of the property could result in payment to creditors, I made the case an asset case, and Proofs of Claim were required to be filed. Only two Proofs of Claim were filed. The first by the Township of Bordentown for \$4,804.47 as a result of past due taxes, and a second by Arecon for \$79,679.38. Arecon’s Proof of claim asserted a security interest as a result of a construction lien.

8. During the course of my investigation, I discovered that there was insurance which might be available for future clean-up, and for work that had previously been performed. As a result, I filed an application to appoint the law firm of Tyler & Carmeli, P.C. as special counsel for the Trustee to assist the Trustee in collecting insurance monies. An Order was entered approving the appointment of Tyler & Carmeli, P.C. as special counsel for the Trustee.

9. Based upon its appointment as the environmental engineer for the Trustee, Arecon continued to perform services regarding the remediation, and Carmeli reached agreements with

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various insurance carriers on the Estate's behalf for work performed pre-petition based upon the invoices submitted by Arecon the carriers also paid for post-petition environmental services. I filed various fee applications on behalf of Arecon, and have paid it \$42,682.83 in administrative fees. Arecon has been paid for all post-petition services.

10. At the request of Matthew Krantz, Esq., of the Carmeli law firm, Arecon prepared a cost estimate so that an amount could be communicated to the insurance companies. Arecon was advised that it did not want to continue work without knowing it would be paid. Arecon estimated a remediation of between \$250,000.00 and \$300,000.00.

11. As of May 4, 2017, Arecon advised that it had completed the temporary well sampling, and that it would submit the appropriate remedial investigation addendum to the Department of Environment Protection (hereinafter "DEP"). Arecon determined that additional remedial investigation activities would be necessary as one of the two wells sampled demonstrated exceedances, and that it would prepare the proposed costs of action.

12. As a result of my conversations with representatives of Arecon, it is my understanding that the cost of excavating/dewatering, disposal of contaminated water, backfill material, transportation and disposal, post excavation, soil sampling and analysis and miscellaneous costs, would result in an expenditure of \$99,986.25. Additionally, there would be well sampling, redevelopment and enhanced fluid recovery costs, including ground water sampling, well redevelopment and enhanced fluid recovery totaling \$22,250.00. There would also be ground water sampling for the first four years and bi-annual sampling the following six

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years, reporting the results of the sampling, and estimated repair costs totaling \$63,750.00. There are also costs associated with disposal totaling \$2,160.00 and contingency items. The remainder of the potential estimate is for the cost of the professionals. The total estimate as of June 9, 2017 was \$303,984.58. A copy of the estimate is attached hereto as **Exhibit A**.

13. Because there would be a delay in receiving payments from insurance companies, Arecon would have to fund the project itself. Arecon advised me that it could not afford to advance the necessary costs and labor to continue with the project.

14. During the second half of 2017, I continued to attempt to persuade Arecon to perform the work based upon the fact that there was insurance, and that once the property was remediated, it could be sold to pay the balance due and owing to it.

15. Arecon is not willing to advance the monies necessary to carry the project pending receipt of any insurance monies. Because any insurance monies collected would have to be paid 1/3rd to special counsel, it would leave a \$100,000.00 potential deficit for Arecon, which could only be satisfied from the ultimate sale of the property. The Trustee has no ability to fund the project. It is therefore respectfully requested that the Court enter an order permitting the Trustee to abandon the Debtor Estate's interest in the property. Upon abandonment, the owners of the company can make such arrangements as are necessary to fund the project, and collect any of the insurance for the clean-up.

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I hereby certify that the foregoing statements made by me are true. If any of the foregoing statements made by me are willfully false, I am subject to punishment.

ATKINSON & DeBARTOLO, P.C.
Attorneys for the Trustee

BY: 

BUNCE D. ATKINSON, ESQ.

Dated: 04/02/2018

EXHIBIT A



Conservative Estimate 6/8/17

Item 1 - Excavation and Removal of Benzene Contaminated Soil (100 tons)				
Description	Item	Rate	Total Charges	Comments
Excavation/Overseeing	900 tons	LS	\$18,000.00	2 assumptions apply
Disposal of Contaminated Water	Assumes one (1) month for 100 tons	\$0.49 per gallon x 20,000 gallons	\$9,800.00	Volume and known, assumes 20,000 gal from benzene and benzene facility separately
Backfill Material	33 loads	\$375.00	\$12,375.00	Assumes 10 cy per load
Transportation and Disposal	900 tons	\$57.50/ton	\$51,750.00	Assumes liability approvals (non-hazardous), low level, manifesting
Post-excavation Soil Sampling and Analysis	As required	LS	\$2,500.00	Assumes 11 soil samples for benzene
Misc. Costs	00		\$4,781.25	Assumes field sample collection time not to exceed 4 hours. Includes travel time and expenses, utility truck and sampling equipment. Includes QAPP & HAP
			Subtotal 1	Project Oversight, Administrative, L&RP review
			\$85,956.25	
Item 2 - Remedial Action Record (RAR) and RAR Form due 8/7/2018				
Description	Item	Rate	Total Charges	Comments
Professional	Hours	Hourly Rate		
L&RP	5	\$180	\$900.00	Estimated cost, to be billed on hours at BR
Project Engineer	10	\$110	\$1,100.00	Estimated cost, to be billed on hours at BR
Project Manager	10	\$110	\$1,100.00	Estimated cost, to be billed on hours at BR
Senior Scientist	32	\$85	\$2,720.00	Estimated cost, to be billed on hours at BR
Assistant Scientist	10	\$85	\$850.00	Estimated cost, to be billed on hours at BR
Draftsperson/GE	20	\$55	\$1,100.00	Estimated cost, to be billed on hours at BR
Administrative	40	\$45	\$1,800.00	Estimated cost, to be billed on hours at BR
Electronic Data Deliverables	10	\$35	\$350.00	Assumes 4 data packages at \$35 per data package
Misc. Costs	---	LS	\$1,214.00	Office supplies, Miscellaneous items @ 10% of Billable Hours
RAR Submit On Line	8	\$110	\$880.00	New RARSP Requirement
			Subtotal 2	Based on experience with similar projects, actual hours may vary
			\$12,034.00	
Item 3 - QAP update with ER and RAR due with RAR				
Description	Item	Rate	Total Charges	Comments
Professional	Hours	Hourly Rate		
L&RP	15	\$180	\$2,700.00	
Project Manager	10	\$110	\$1,100.00	
Drafts Person	40	\$55	\$2,200.00	
Senior Scientist	20	\$85	\$1,700.00	
			Subtotal 3	
			\$7,700.00	
Item 4 - Miscellaneous Environmental Consultation, Review, Guidance Clinic, QAP contact, Remediation Permit				
Description	Item	Rate	Total Charges	Comments
Professional	Hours	Hourly Rate		
L&RP	40	\$180	\$7,200.00	
Project Engineer	0.75	\$110	\$82.50	
Project Manager	0.75	\$85	\$63.75	
Senior Scientist	9	\$85	\$765.00	Other information anticipated
Assistant Scientist	1.75	\$70	\$122.50	
Administrative	3	\$45	\$135.00	
Misc. Costs	---	LS	\$717.83	Office supplies, postage, 10% of Billable
			Subtotal 4	Includes the cost of a site visit required on 8/15/2017, Estimated cost, to be billed on hours at BR
			\$7,953.58	
Item 5 - RAP Application for Ground Water				
Description	Item	Rate	Total Charges	Comments
RAP Application Fee	---	LS	\$1,000.00	Based on current NJDEP rates for MHA
Preparation of RAP for GW & Coordination with the NJDEP	---	LS	\$3,000.00	Estimated cost, to be billed on hours at BR
RAP Annual Fees	10 years	\$255	\$2,550.00	Based on current NJDEP rates for MHA
RAP Termination Fee	---	LS	\$1,205.00	Based on current NJDEP rates for MHA
			Subtotal 5	Assumes permit duration of 10 years (CSM predicts 7 years)
			\$8,355.00	
Item 6 - NJDEP Annual Recreational Fees				
Description	Item	Rate	Total Charges	Comments
Outstanding NJDEP fees	---	LS	\$12,040.00	Should itemize as of 2017/7 per communication re NJDEP 12/18/16
Annual Recreational Fees	3 years	\$2,018	\$6,054.00	Prior to filing a permit (between 3 years) per communication
			Subtotal 6	*Annual Recreational Fees May Change based on project status
			\$18,094.00	
Item 7 - Well Decommissioning				
Description	Item	Rate	Total Charges	Comments
Well Decommissioning	10 wells	\$800.00	\$8,000.00	Assumes GW-1 and GW-2 and remaining 8 wells up to permit duration
			Subtotal 7	
			\$8,000.00	
Item 8 - Installation of rock-bottom well MW-5 and additional wells (Assumes 2)				
Description	Item	Rate	Total Charges	Comments
Professional	Hours	Hourly Rate		
Project Manager	4	\$110	\$440.00	
Field Technician	5	\$85	\$425.00	
Licensed Driller	---	LS	\$10,500.00	
Licensed Surveyor	---	LS	\$1,900.00	
			Subtotal 8	
			\$12,965.00	
Item 9 - Well Sampling, Remediation and Enhanced Field Recovery				
Description	Item	Rate	Total Charges	Comments
Ground water sampling	4	\$2,000.00	\$8,000.00	
Enhanced Field Recovery	4	\$1,500.00	\$6,000.00	Assumes 4 events
Well Remediation	1	\$4,280.00	\$4,280.00	4 wells, assumes 1 day
			Subtotal 9	
			\$18,280.00	
Item 10 - RAR				
Description	Item	Rate	Total Charges	Comments
Professional	Hours	Hourly Rate		
L&RP	4	\$180	\$720.00	
Senior Engineer	8	\$85	\$680.00	Other information anticipated
Project Manager	2	\$110	\$220.00	
Assistant Scientist	2	\$85	\$170.00	
Misc. Costs	---	LS	\$175.00	
			Subtotal 10	Estimated cost, to be billed on hours at BR
			\$1,965.00	
Item 11 - Annual Certification Records				
Description	Item	Rate	Total Charges	Comments
Ground water sampling	7	\$7,500	\$52,500.00	Assumes annual sampling the first 4 years and Manual sampling the following 3 years
Annual Certification Reporting	5	\$1,500	\$7,500.00	Includes project management, sampling equipment, sample collection and analysis
Repair costs	10	\$220	\$2,200.00	Includes repair preparation, inspection and L&RP oversight
			Subtotal 11	Assumes permit duration of 10 years
			\$62,200.00	
Item 12 - RCW (Assumes)				
Description	Item	Rate	Total Charges	Comments
Non-haz liquid waste	5	\$115/ton	\$575.00	Assumes 5 drums, non-hazardous and liability approvals
Transportation charges	1	\$800/load out	\$800.00	Only one with estimate item at one day
Drum load out and manifesting	1	\$550/day	\$550.00	Only one with estimate item at one day
			Subtotal 12	Assumes no sampling is required, will use existing waste characterization results
			\$1,925.00	
Item 13 - Vapor Intrusion				
Description	Item	Rate	Total Charges	Comments
	1	\$23,000.00	\$23,000.00	Not required at this time, but may be required in the future if structure is located on property as part of future site development.
			Subtotal 13	
			\$23,000.00	
Item 14 - Contingency Fee				
Description	Item	Rate	Total Charges	Comments
	1	Lump sum	\$14,475.48	Basic costs and expenses
			Subtotal 14	
			\$14,475.48	
			Total Estimate	
			\$303,884.51	